

Herefordshire Council

**Abbeydore, Bacton, Ewyas Harold,
Dulas, Llancillo, Rowlestone and
Kentchurch Parishes
Neighbourhood Development Plan
2017-2031**

Independent Examiner's Report

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20 December 2017

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Summary

I have been appointed as the independent examiner of the Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch Parishes Neighbourhood Development Plan. The Plan covers the Parishes of Abbeydore and Bacton, Ewyas Harold Group (Ewyas Harold, Dulas, Llancillo, Rowlestone) and Kentchurch. It lies about half way between Hereford City some 12 miles to the northeast and Abergavenny to the southwest. The area is renowned for its landscape and views.

The Plan is well presented and has a welcome clarity of thought. It is very clear what it wants to achieve. This is particularly impressive given that the Plan covers seven different Parishes.

The Plan has, in many ways, been ambitious; it supports the relocation of the primary school and seeks the reopening of Pontrilas Station (although this does not form part of any planning policy).

Although no site allocations are made for housing, the Plan defines a settlement boundary for the largest village in this Group and indeed in the southwest of Herefordshire, Ewyas Harold. It takes a local approach to the distribution of housing by considering the size, role, function and character of each settlement in the Parishes whilst ensuring that the strategic elements of the Core Strategy can be achieved.

Overall, the Plan is well written and evidenced building on earlier Parish Plan and Village Design Statement work and sustained community engagement across the seven Parishes. As a result, I have recommended relatively few modifications intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear enabling it to provide a practical framework for decision-making as required by national policy and guidance.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Herefordshire Council that the Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch Parishes Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
20 December 2017



1.0 Introduction

This is the report of the independent examiner into the Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch Parishes Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Herefordshire Council (HC) with the agreement of the Parish Councils, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The examiner is required to check¹ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

¹ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions² are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Herefordshire Council. The plan then becomes part of the 'development plan' for the

² Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

3.0 Neighbourhood plan preparation and the examination process

A Consultation Statement has been submitted which meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

For the Abbeydore and Bacton Group, a public meeting was held in April 2013 which was well attended by over 60 people. This led to the development of a questionnaire later that year with about 50% responding.

Work on a Parish Plan had already begun for the Ewyas Harold Group with a range of consultation events and engagement with young people. Public meetings were held in March 2012 to progress the Parish Plans for Ewyas Harold, Dulas and Rowlestone and Llancillo. Parish Plans were subsequently adopted.

A questionnaire was undertaken for Kentchurch Parish in September 2013.

A public meeting in July 2014 brought all the Parishes involved in the Plan together. A questionnaire was also conducted for the residents of all Parishes. A further public meeting was held later that year.

Local businesses and service providers have been engaged throughout the Plan preparation.

An informal consultation on the draft Plan was held in November/December 2014 across the seven Parishes and fed into the pre-submission version of the draft Plan.

Pre-submission (Regulation 14) consultation took place between 16 February – 29 March 2015. The Plan was available online, consultation responses invited from consultation bodies and letters were sent to local businesses and community organisations. A postcard was delivered to all households and flyers placed on Parish notice boards.

The Consultation Statement summarises the comments received and how these were addressed.

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 27 June – 8 August 2017.

The Regulation 16 stage resulted in 13 representations which I have considered and taken into account in preparing my report.

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required.

In this regard I note that Welsh Water have requested the inclusion of a new policy. Whilst there is little doubt that this would be useful, there is no requirement for a neighbourhood plan to include any particular type of policies and this is not a modification I need to make in respect of my role.

Carter Jonas on behalf of the Hereford Diocese also put forward a site for consideration. The Plan does not make any site allocations and does not have to. The site in question would fall to be considered under Policy EH1 as the representation recognises.

PPG explains⁸ the general rule of thumb is that the examination will take the form of written representations,⁹ but there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. After careful consideration of all the documentation and representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

I made an unaccompanied site visit to familiarise myself with the Plan area on 8 November 2017.

Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in **bold italics**.

4.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

The three Parish Councils of Abbeydore and Bacton, Ewyas Harold Group and Kentchurch comprise the qualifying body able to lead preparation of a neighbourhood plan. This requirement is met.

⁶ PPG para 055 ref id 41-055-20140306

⁷ *Ibid*

⁸ *Ibid* para 056 ref id 41-056-20140306

⁹ Schedule 4B (9) of the Town and Country Planning Act 1990

Plan area

The Plan area is coterminous with the administrative boundaries for the seven Parishes. HC approved the designation of the area on 28 November 2012. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on Figure 1 on page 3 of the Plan.

Plan period

The Plan period is 2017 – 2031. This is clearly stated in the Plan itself and confirmed in the Basic Conditions Statement. The end date aligns with the CS. This requirement is therefore met.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the Basic Conditions Statement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. Should I consider a policy or proposal to fall within this category, I will recommend it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.¹⁰ Subject to any such recommendations, this requirement can be satisfactorily met.

5.0 The basic conditions

Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood

¹⁰ PPG para 004 ref id 41-004-20140306

Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹¹

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹²

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at <https://www.gov.uk/government/collections/planning-practice-guidance>. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to it in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹³

PPG indicates that a policy should be clear and unambiguous¹⁴ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹⁵

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁶ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁷

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan has responded to national policy and guidance through commentary on how the Plan aligns with the NPPF's core planning principles.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole¹⁸ constitutes the Government's view of what sustainable development means in practice

¹¹ NPPF paras 14, 16

¹² *Ibid* para 184

¹³ *Ibid* para 17

¹⁴ PPG para 041 ref id 41-041-20140306

¹⁵ *Ibid*

¹⁶ *Ibid* para 040 ref id 41-040-20160211

¹⁷ *Ibid*

¹⁸ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.¹⁹

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains a table which briefly explains how the Plan aligns with each of the three components of sustainable development outlined in the NPPF.

General conformity with the strategic policies in the development plan

The development plan consists of the Herefordshire Local Plan Core Strategy 2011 – 2031 (CS) which was adopted on 16 October 2015 and various other documents including the saved policies of the Unitary Development Plan (UDP) (found in Appendix 1 of the CS). I have taken all the CS policies to be ‘strategic’.

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains a table that gives an assessment of how each Plan policy generally conforms to the relevant CS policies.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.²⁰

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (the Regulations).

An Environmental Report (ER) dated June 2017 has been submitted as an earlier screening opinions of 16 (Abbeydore and Bacton) and 17 (Ewyas Harold Group and Kentchurch) May 2013 concluded that a SEA would be required.

¹⁹ NPPF para 7

²⁰ PPG para 031 ref id 11-031-20150209

The ER confirms that a Scoping Report dated October 2014 was prepared and sent to the statutory consultees from 3 October – 7 November 2014. Two responses were received from Natural England (NE) and Historic England (HE) and changes made to respond to the comments made.

A draft ER underwent a period of consultation from 16 February – 30 March 2016 alongside the pre-submission version of the Plan. No responses were received from the statutory consultees.

Following some policy refinements, the ER of June 2017 reassessed the amended or new policies. It was published for consultation alongside the submission version of the Plan.

HC will monitor the outcomes from the Plan's policies annually.

Whilst the Plan's objectives have changed from earlier assessments in the ER, the ER assesses all of the submission policies in the Plan comprehensively and this can be picked up by HC when it (re)assesses any modifications to the Plan in relation to EU obligations when it takes the decision on whether the Plan should proceed to referendum. It is clear that the Plan has responded to recommendations in earlier versions of the ER.

Overall the ER is a comprehensive document that has dealt with the issues appropriately for the content and level of detail in the Plan. This in line with PPG advice which confirms the SEA does not have to be done in any more detail or using more resources than is considered to be appropriate for the content and level of detail in the Plan.²¹ In my view, it has been prepared in accordance with Regulation 12 of the Regulations. Therefore EU obligations in respect of SEA have been satisfied.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.²² The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

The initial screening assessments in May 2013 found that the Plan area did not contain any European sites and those further afield would not be affected by the Plan and its policies. The HRA Screening Assessment dated December 2014 concludes that the Plan will not have a likely significant effect on any European sites alone or in combination with other plans and affirmed the conclusion that a full HRA would not be needed. NE concurred with this assessment.²³

²¹ PPG para 030 ref id 11-030-20150209

²² *Ibid* para 047 ref id 11-047-20150209

²³ Letter from NE of 21 November 2014

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in section 2.0 of this report. In my view, requirements relating to Habitats Regulations Assessment have been met and the Plan complies with this basic condition.

European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a statement on human rights. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

6.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. As a reminder, where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is well presented and clearly laid out with policies which are clearly differentiated from supporting text. Photographs throughout the Plan add a locally distinctive flavour to the Plan. There is a useful contents page at the start of the Plan.

1 Introduction

This well written and structured section is easy to read and digest. It contains much useful information about the Plan area and the background to the Plan preparation. It recognises that working together as a group of Parishes is difficult and whilst common issues were found, other issues were more Parish specific.

2 Why are we preparing a Neighbourhood Development Plan for Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch?

This short section explains the reasons for producing the Plan.

3 Preparing the Neighbourhood Development Plan

A very useful diagram of the different stages in the neighbourhood plan preparation process.

The section gives helpful signposts to further information in other documents such as the Consultation Statement.

There is one typographical error that should be corrected in the interests of accuracy.

Some natural updating will of course be required as the Plan progresses to the next stages towards being made.

- **Change the reference to “Figure 2” in paragraph 3.2 on page 21 of the Plan to “Figure 6”**

4 Plan wide policies and proposals of the Neighbourhood Development Plan

The vision for the area in 2031 is:

“The vibrant village centres act as a focus for this rural Neighbourhood Development Plan area, supporting local services and encouraging appropriate industry. The rural character of both village and countryside is conserved until 2031. New development is integrated into its setting, whether at the heart of the villages, or in the more rural areas. All development has minimal impact on the area’s distinctive character and environment. All development is essential to support the needs and functioning of the local community.”

A number of Plan-wide issues are then identified. Both the vision and the Plan-wide issues are clearly articulated and relate to the development and use of land.

It is useful for me at this stage to set out the strategic context for the Plan as this applies across the Plan area.

The strategy for the rural areas in the CS²⁴ is positive growth. The strategy is based on seven housing market areas (HMA). This Plan covers two HMAs; Golden Valley and Ross-on-Wye. The Golden Valley HMA has an indicative housing growth target of 12% according to CS Policy RA1 and the Ross-on-Wye HMA 14%.

This results in, according to HC figures at April 2017, a target of 58 (47 commitments) for Ewyas Harold Group, 20 (3 commitments) for Abbeydore and Bacton and 19 (11 commitments) for Kentchurch. At April 2017, there was therefore a requirement for a minimum of 36 dwellings within the remainder of the Plan period.

The CS explains that this indicative growth target in CS Policy RA1 will form the basis for the minimum level of new housing to be accommodated in each neighbourhood plan across the County.

²⁴ Core Strategy Section 4.8

The main focus for development is within or adjacent to existing settlements listed in two figures, 4.14 and 4.15. CS Policy RA2 translates this into policy. Ewyas Harold (Golden Valley HMA) and Pontrilas (Ross-in-Wye HMA) are identified in Figure 4.14 as settlements which will be the main focus of proportionate housing development. Abbeydore, Bacton and Rowlestone (Golden Valley HMA) are identified in Figure 4.15 as other settlements where proportionate housing is appropriate.

The CS states that neighbourhood plans have flexibility to apportion the minimum housing requirement between the settlements concerned where more than one settlement is listed Figures 4.14 and 4.15.

In this case, the Parishes have elected to focus growth in Ewyas Harold and have defined a settlement boundary for that village.

Policy G1 Protecting and Enhancing the Landscape of the Golden Valley

The local landscape is of great importance to the local community and indeed is widely recognised for its quality and many attributes. This policy seeks to ensure that new development protects and enhances the natural and local environment mirroring one of the core planning principles in the NPPF²⁵ and CS Policies SS6, LD1, LD2 and LD4.

Whilst the policy is clearly worded, there are some minor revisions that will ensure it takes account of national policy and achieves sustainable development and therefore meet the basic conditions. The suggested modifications are:

- **Delete “where appropriate” from the first sentence of the policy**
- **Add “*commensurate with their designation, status and significance*” to the end of criterion c.**
- **Add “*where possible*” before “...enhance non-designated assets...” in criterion d.**
- **Add “*where possible*” before “...extend native tree species” in criterion g.**

Policy G2 Design

Policy G2 seeks to encourage all new development to be of a high quality design in line with the NPPF which explains that the Government attaches great importance to the

²⁵ NPPF para 17 and Section 11

design of the built environment.²⁶ The policy clearly sets out the criteria against which proposals will be judged.

Network Rail have commented that it would be useful to add rail to criterion h. which refers to the provision of safe road crossings where required. This would be a useful addition given the characteristics of the Plan area.

The policy takes account of national policy and guidance, generally conforms to CS Policies SS6, MT1, LD1, LD4 and SD1 and will help to achieve sustainable development.

- **Add “*and rail*” after “...safe pedestrian road...” in criterion h. of the policy**

Policy G3 Flooding

There is little doubt that consideration of flood risk will proactively help to meet one of the challenges of climate change. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.²⁷ It advocates a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property.²⁸ The supporting text explains that the Parishes of Ewyas Harold and Abbeydore are susceptible to flooding.

Policy G3 seeks to help to address flood risk and encourage appropriate surface water and sustainable drainage systems. It is clearly worded. It takes account of national policy and guidance, generally conforms to CS Policies SD3 and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

Policy G4 Tourism

Tourism is recognised as an important contributor to the local economy. This reflects the NPPF’s support for economic growth in rural areas and for sustainable tourism and leisure developments that benefit the local community and visitors and which respect the character of the countryside.²⁹ It generally conforms with CS Policy E4.

Policy G4 is clearly worded and will support such proposals in appropriate locations. It meets the basic conditions and no modifications are suggested.

²⁶ NPPF Section 7

²⁷ *Ibid* para 100

²⁸ *Ibid*

²⁹ *Ibid* para 28

Policy G5 Golden Valley Green Infrastructure

There is a typographical error in the title of the policy that should be corrected in the interests of accuracy.

The NPPF defines green infrastructure as a network of multi-functional green space that can deliver a variety of environmental and quality of life benefits. In addition green infrastructure can help to manage impacts from climate change. This policy plans positively for the protection, enhancement and creation of green infrastructure. It reflects CS Policy LD3. It is clearly worded.

However, HC suggest that the phrase “priority habitat” used in the policy is changed to “new habitats”. This would give the policy more scope and greater clarity so in the interests of providing a practical framework for decision making, this modification is recommended.

The policy will then take account of national policy and guidance and will particularly help to achieve sustainable development.

- **Amend “nfrastructure” to “/nfrastructure” in the title of the policy**
- **Change the phrase “priority habitat” in criterion b. to “*new habitats*”**

Policy G6 Highways and Transport

It is clear that transport and traffic issues are of particular importance to the local community. This policy seeks to ensure that new development provides safe and suitable access, appropriately located and level of parking, encourage access to public transport and measures to reduce road speeds reflecting CS Policies SS4 and MT1.

However, the policy does not require any proposal to be in compliance with it and so a modification is recommended to ensure that the policy is implemented and its aims delivered.

Transport policies play an important part in ensuring that development is sustainable and providing a choice of transport mode. Measures to address traffic speed are not however a development and use of land issue; rather it is a traffic management issue. Therefore in order to meet the basic conditions this element of the policy should be reworded to broaden it out.

- **Change the word “including” in the first sentence of the policy to “*providing*”**

- **Reword criterion b. to read: “any necessary and appropriate traffic management measures”**

Policy G7 Rural Environment and Tranquility

The rural environment and its tranquility are key characteristics of the Plan area. This policy seeks to ensure that new development is appropriate in terms of its use, scale and activity levels. This aim chimes well with protecting and respecting the countryside whilst allowing suitable and sustainable development. It reflects CS Policies SS6 and SD1.

However, the wording of the policy needs to be clearer and more precise to ensure that it provides the practical framework for decision making required by national policy and guidance. Criterion c. in its present form may also inadvertently permit development that would otherwise be unacceptable, as it seems to seek mitigation measures to minimise any harmful impacts.

In addition a Noise Impact Assessment is required for business and tourism related development, but this is an onerous requirement and may not be reasonably needed for smaller scale proposals. I note that HC also makes this point in their representation. A modification is made to make this more flexible.

- **Revise the first sentence of the policy to read: “To protect the integrity of the rural environment and the tranquility of the Golden Valley development proposals will *only* be supported when they do not give rise to significant adverse impacts on these resources. The following criteria will be used to assess proposals *to help determine their appropriateness:*”**
- **Change the word “will” in criterion b. to “may”**
- **Reword criterion c. to read: “The inclusion *of mitigation* measures to *avoid, reduce or remedy any adverse impacts arising from the proposed development*. Such measures will be conditioned where necessary.”**

Policy G8 Dark Skies

The supporting text explains that lighting can have an adverse impact on neighbours, the environment and the night sky whilst providing benefits such as reducing the risk of crime and improving safety.

The NPPF seeks to limit the impact of light pollution on intrinsically dark landscapes and

nature conservation as well as local amenity.³⁰ PPG states that artificial light can provide many benefits, but is not always necessary. Light pollution can be harmful or a source of annoyance to people and wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky. It continues “the best use of artificial light is getting the right light, in the right place and providing light at the right time”.³¹

This policy seeks to ensure that any development that involves lighting will not have an unacceptable impact on the night sky. The policy is clearly worded. It meets the basic conditions and no modifications are recommended.

Policy G9 Rural Businesses and Homeworking

Policy G9 supports rural businesses provided that there is an acceptable effect on the living conditions of neighbours, the character and setting of the area and suitable access and appropriate parking is provided.

The policy will help to achieve sustainable development and is in line with national policy’s support for the rural economy and the general thrust of CS Policies SS5, RA5, RA6, E1, E3 and MT1. It therefore meets the basic conditions and no modifications are suggested.

Policy G10 Local Green Spaces

This policy seeks to designate five areas of Local Green Space (LGS) in Ewyas Harold.

The NPPF explains that LGSs are green areas of particular importance to local communities.³² The effect of such a designation is that new development will be ruled out other than in very special circumstances. The wording of the policy reflects this.

The identification of LGSs should be consistent with local planning of sustainable development and complement investment. The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

Each of the proposed LGSs is shown clearly on Figure 9, the Ewyas Harold village Policies Map, to be found on page 55 of the Plan, which is also usefully cross referenced in the policy.

There is a helpful table (Table 2) in the Plan that explains the how each of the proposed areas meets the criteria in the NPPF and I commend this approach to others.

³⁰ NPPF para 125

³¹ PPG para 001 ref id 31-001-20140306

³² NPPF paras 76, 77 and 78

I visited all five areas on my site visit. Taking each one in turn:

1. **Recreation Ground** is a recreational area with a play area, picnic tables, a pavilion building with an associated car park accessed via a lane. It is on the edge of the residential area, close to a Church.
2. **Horsecroft** is a small green space on the housing estate for older people in the heart of the village. It is important for its openness, its stream and its contribution to the setting of the surrounding housing.
3. **Island Field** is located at a key junction in the heart of the village and is an extremely prominent and important open space almost acting as a traditional village green. Its boundaries are defined by walls and fencing with one boundary running alongside Dulas Brook. At the time of my visit, this meadow had sheep grazing on it, but has historically been used for the May Fair. The area affords open views across the village and is an essential and integral part of its character/
4. **Oakbrook Close** is a small area of grass with a tree that forms part of the setting of, and the amenity of, the surrounding housing.
5. **Elmdale** is a small area of grass important for both the setting of the surrounding residential development and the amenity it provides.

In my view, all of the proposed LGSs meet the criteria in the NPPF satisfactorily. The policy is clearly worded and the locations of the LGSs shown clearly on a map which the policy cross-references. The policy meets the basic conditions in particular the NPPF and no modifications are recommended.

Policy G11 Community Infrastructure Levy

Policies in neighbourhood plans can be used to specify particular funding requirements from development including through the use of any monies from the Community infrastructure levy. However, this policy sets out how the Parish Councils will determine what those priorities might be. It therefore does not relate to the development and use of land in itself. In addition HC does not have a charging schedule at the present time. This then could lead to some confusion.

Nevertheless it is a useful section to incorporate as a community aspiration. For this reason it should be moved to a separate section of the Plan or become an annex.

- **Move Policy G11 and its supporting background/justification to a separate section of the Plan and ensure that it is clearly differentiated as a community aspiration including through the removal of the policy number**
- **Consequential editorial changes to the Plan will be needed**

5 Abbeydore and Bacton

A vision and key issues are identified. Two specific objectives are set out. All are clearly articulated.

Policy AB1 New Housing Development in Abbeydore and Bacton Villages

Policy AB1 supports new housing to meet local needs in Abbeydore and Bacton villages subject to a number of criteria.

I saw at my site visit that Abbeydore, whilst boasting a village hall and pub (currently closed) and being situated on a bus route, is spread out and relatively disconnected as a legible settlement. Bacton is a smaller concentration of houses and has a focused centre with a Church and hall. The area boasts some magnificent views.

A decision has been taken not to define a settlement boundary for each settlement, rightly in my view. Instead reliance is placed on the policy which directs new housing to be within or immediately adjacent to the existing main built up areas of these two villages and this is an appropriate approach given the nature of these two villages. It accords with the approach outlined in CS Policy RA2.

However, there are two issues that warrant further thought. The first is whether the policy that only permits new housing to meet local needs is too restrictive. The second is that criterion b. only permits small-scale development of 1 and 2 homes.

On the first point, CS Policy RA2 criterion 4. refers to schemes being permitted where the delivery of housing reflects local demand; it makes reference to size, type, tenure and range. The final paragraph of CS Policy RA2 refers to local need housing. My view is that the reference to local needs housing in Policy AB1 should be revised to reflect both scenarios in CS Policy RA2.

On the second point, given that the Plan encourages most development towards Ewyas Harold as the largest village with a range of services and facilities and given the character and nature of the settlements, the desire for smaller scale development is appropriate. However, the specific reference to 1 and 2 homes may inadvertently prevent the achievement of sustainable development or a particular site being appropriately designed and developed. Therefore a modification is recommended to address this.

Otherwise the policy is worded clearly and will help to ensure that housing appropriate to these two settlements is supported.

The supporting text contains one typographical error which should be corrected in the interests of accuracy.

Subject to these modifications, it will meet the basic conditions.

- **Change the first sentence of the policy to read: “New housing *that reflects local demand or meets local needs...*”**
- **Change criterion b. to read: “Be a small-scale development, *usually defined as 1 or 2 homes;*”**
- **Change “Policy BA1” in paragraph 5.21 of the Plan to “Policy AB1”**

6 Ewyas Harold, Dulas, Llancillo and Rowlestone

Again key issues and ten objectives are clearly set out.

Policy EH1 Housing in the Village of Ewyas Harold

Ewyas Harold is identified as a main focus for proportionate housing in CS Policy RA2.

A defined settlement has been drawn for Ewyas Harold village. It is clearly shown on the Policies Map (Figure 9, page 55 of the Plan). In my view the boundary has been designated appropriately.

Policy EH1 supports development within the settlement boundary subject to a number of criteria. Outside the settlement boundary, development is only supported where it adjoins the boundary, can be integrated into the village and its environs and meets the other criteria b. to i. in the first part of the policy. This approach generally conforms to the CS.

All of the criteria are clearly worded. However, one causes me concern. Criterion l. in the second part of the policy supports development outside the settlement boundary only if there are no alternative previously developed sites within the settlement boundary. Whilst I recognise the NPPF encourages the reuse of previously developed land,³³ this could prevent otherwise acceptable development coming forward and the development of previously developed sites in the village are unlikely to be within the same ownership. In addition such sites can be notoriously more difficult and slower to develop. Therefore although I appreciate the sentiment of this criterion, it may prevent the achievement of sustainable development. It should therefore be deleted.

- **Delete criterion l. from the policy**
- **Renumber criterion m. as criterion l.**

³³ NPPF para 17

Policy EH2 New Housing Development in Rowlestone Village

At my site visit I saw that Rowlestone village is of a small size with a few large properties and farms. Although there is a Church and some businesses including a printers and Rowlestone's ice cream, it is accessed via narrow rural lanes. Its character is therefore of a rural hamlet. The village is identified in the CS Policy RA2 as a settlement where proportionate housing is appropriate.

Policy EH2 supports new housing to meet local needs within or immediately adjacent to the built up area subject to a number of criteria. Like Policy AB1, it refers to local needs and small-scale development. In line with Policy AB1 and for the reasons given in my discussion of that policy, two modifications are recommended.

- **Change the first sentence of the policy to read: “New housing development *that reflects local demand or meets local needs...*”**
- **Change criterion b. to read: “Be a small-scale development, *usually defined as 1 or 2 homes;*”**

Policy EH3 Housing Design in Ewyas Harold and Rowlestone

Policy EH3 is a criteria based policy that seeks to ensure that any development is appropriate in its setting and to the character of the village in which it is situated. All of the criteria will help to respect locally distinctive character and features. However, two criteria require greater flexibility to ensure that it does not prevent the achievement of sustainable development or stifle innovative design and in so doing would not accord with the NPPF; criteria c) and e).

The policy reflects one of the twelve core planning principles in the NPPF³⁴ to always seek to secure high quality design and the NPPF's stance on planning for good design,³⁵ generally conforms to the CS and will help to achieve sustainable development. Subject to this modification, the policy will meet the basic conditions.

The Ewyas Harold Village Design Statement is referred to in the policy and supporting text. I asked for a copy of this; it is a useful document but one that was produced some time ago and I suspect the Parish Council may wish to consider updating it in the near future. A note could be usefully added to this effect in the supporting text if this is the case, but this is not a recommendation needed to ensure the Plan meets the basic conditions.

³⁴ NPPF para 17

³⁵ *ibid* section 7

Incidentally most other policies up to this point in the Plan have used full stops rather than brackets for the criteria. This is simply a small point about presentation and style that the Parish Council may wish to consider when finalising the document.

- **Add the words “*whenever possible and available*” after “Designs make use of local materials...” in criterion c)**
- **Add the words “*whenever possible and available*” after “Designs use recycled old stone tiles...” in criterion e)**

Policy EH4 Development affecting Highways and Streetscapes

Essentially, this policy seeks to ensure a high standard of development that does not detract from, or erode, the rural character of the area. The criteria based policy takes its lead from the Ewyas Harold Design Statement. I requested a copy of this from the Parish Council.

Criterion h) refers to traffic speed and this is not a development and use of land matter. As a result it should be deleted from the policy. Subject to this modification, the policy will meet the basic conditions.

- **Delete criterion h) in its entirety**

Policy EH5 Ewyas Harold Primary School

The supporting text explains that discussions have taken place about moving the primary school to a new site. Earlier versions of the Plan allocated a site, but it has been decided to include a criteria based policy to support a new school instead. Given the level of uncertainty regarding the site that has been mooted, this is a sensible approach.

The policy therefore supports a new primary school in Ewyas Harold village subject to a number of criteria aimed at ensuring such a development is suitably located and designed, has appropriate access, parking and drop off/pick up arrangements and will be an asset to the local community. The policy is flexible in supporting a site within or on the edge of the settlement boundary. It is clearly worded and meets the basic conditions and as a result no modifications are recommended.

Policy EH6 Ewyas Harold Local Centre

Ewyas Harold is a key centre with a good range of facilities and services including two business parks. It serves a wide rural hinterland. This policy aims to protect and enhance that important role.

The NPPF³⁶ promotes the retention of and development of local services and community facilities.

Amongst other things, CS Policy SC1 protects, retains and enhances existing social and community infrastructure. It retains existing facilities unless an appropriate alternative is available or can be provided or it can be shown the facility is no longer required, viable or is no longer fit for purpose. Where appropriate this includes vacant facilities that have been marketed without success. The supporting text to the CS policy explains that where a business is no longer viable, an alternative community use should be considered first of all and to show this evidence of marketing for at least 12 months should be provided.

Criterion a. of Policy EH6 does not make any reference to the use no longer being required or viable. A modification is therefore recommended to add this to the policy so that it is reasonable and provides a practical framework for decision making.

HC Transportation make the point that sub-criterion iii. of criterion b. should be backed up by appropriate evidence and suitable mitigation measures. I agree that the criterion should address wider transport related issues in line with the NPPF's encouragement for the use of sustainable transport modes and ensuring safe and suitable access³⁷ and would benefit from being more precise.

Subject to these modifications, the policy will meet the basic conditions.

- **Add to the end of criterion a.: “or it can be satisfactorily demonstrated that the facility is no longer required or is no longer viable.”**
- **Reword sub criterion iii. of criterion b. of the policy to read: “They provide safe and suitable access to the site for all people. Development proposals must ensure that any transport impacts of the scheme are identified and acceptable. Any measures needed to deal with the anticipated impacts must be implemented.”**

³⁶ NPPF para 28

³⁷ *Ibid* paras 32 and 35

7 Kentchurch

Key issues and two objectives are identified for this Parish. The supporting text explains that Pontrilas is identified in the CS as a main focus for proportionate housing development. Unlike the other settlements in this Plan, Pontrilas falls within the Ross-on-Wye HMA which has a 14% growth target.

Policy K1 Housing Development in the Village of Pontrilas

This policy sets out a number of criteria that will guide development in this settlement. The supporting text explains that it was not considered appropriate for a settlement boundary to be designated. Although I consider it is rather surprising that a settlement boundary has not been defined for Pontrilas, I accept the community's preferred approach. However, the policy refers to "within the village", "beyond the village" and a settlement boundary and given one is not defined, this phrasology causes confusion. As a result I make a number of modifications to address these concerns; some are consequential.

Finally, the reference to the settlement boundary is made in error and needs to be deleted. In addition for the reasons given in my discussion of Policy EH1, this is not appropriate.

Subject to these modifications, the policy will meet the basic conditions.

- **Change the first sentence of the policy to read: "Within the *main built up area* of Pontrilas..."**
- **Change the sentence in the second part of the policy that reads "Proposals for development beyond the village will only be supported when:" to "Proposals for development *adjacent to the main built up area* of the village will only be supported when:"**
- **Delete criterion j. in its entirety**
- **Delete criterion l. in its entirety**
- **Renumber criterion k., criterion j. and criterion m., criterion l.**

8 How to Comment on this Document

This section, as the Plan recognises, will need to be removed as the Plan progresses.

- **Delete section 8 in the final version of the Plan**

7.0 Conclusions and recommendations

I am satisfied that the Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch Parishes Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications proposed in this report, the Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch Parishes Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch Parishes Neighbourhood Development Plan should proceed to a referendum based on the Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch Parishes Neighbourhood Plan area as approved by Herefordshire Council on 28 November 2012.

Ann Skippers MRTPI

Ann Skippers Planning

20 December 2017

Appendix 1 List of key documents specific to this examination

Abbeydore, Bacton, Ewyas Harold, Dulas, Llancillo, Rowlestone and Kentchurch Parishes Neighbourhood Development Plan 2017 – 2031 Regulation 16 Consultation Draft June 2017

Basic Conditions Statement June 2017

Consultation Statement June 2017

Environmental Report June 2017

Habitats Regulations Assessment December 2014

Abbeydore Village Policies Map

Bacton Village Policies Map

Ewyas Harold Village Policies Map

Pontrilas Village Policies Map

Rowlestone Village Policies Map

Ewyas Harold Village Design Statement

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Saved Policies of the Unitary Development Plan 2007

Other supporting documents on the joint neighbourhood plan website
<https://neighplan.wordpress.com>

List ends